



**MEMORANDUM**  
**VIA E-MAIL**

TO: R. Justin Smith, U.S. Department of Justice      FILE NO.: 10922.2  
Laurie Kermish, USEPA Region IX

CC: Dale W. Neiman      **MATERIAL SUBJECT TO**  
   **SETTLEMENT PRIVILEGE**

FROM: James P. Wiesel

DATE: January 7, 2002

RE: Northern California River Watch v. City of Fortuna, N.D. California No. C00-3318 SI

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In response to Mr. Smith's letter of this date and my telephone conversation with him, I enclose proposed letters to Mr. Smith and to Judge Illston, along with a preliminary budget chart for WWTP improvements. This communication and all enclosures are at present subject to a settlement privilege under the Federal Rules of Evidence and will remain such until signed by me and transmitted. As presently communicated, they are not to be referred to in connection with any pending motion before the Court or any future proceeding, unless the City waives such privilege by signature and transmittal.

The City believes that the enclosed represents a good faith response to Mr. Smith's letter and that it fully complies with the terms of that letter. Beyond that, it represents the City's best currently available information. The City is not prepared to negotiate any further timetable for these repairs, or any further timetable to revise its budgets and provide them to the Department of Justice to EPA for review. The City will consider your comments on the enclosed only insofar as they pertain to information omitted from the enclosed that is required by Mr. Smith's letter of this date.

This will confirm that the City Manager, Dale Neiman and I will be available to discuss this by conference call tomorrow morning at 9:00 a.m. PST. The conference call will itself be subject to a settlement privilege under the Federal Rules of Evidence.